

August 19, 2004

THOMAS F HUJAR
8440 NE GORDON DRIVE
BAINBRIDGE ISLAND WA 98110

Subject: Complaint Filed Against Dane Spencer- PDC Case No. 02-291

Dear Mr. Hujar:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint alleging that Dane Spencer, a Bainbridge Island Park District Commissioner in 2002, violated RCW 42.17.130 by using public facilities to support a park district levy campaign. In your complaint, you alleged that Mr. Spencer used public facilities and his position to have district employees mount a political campaign to pass a park district levy. Your complaint was received March 18, 2002, but investigation of your complaint was suspended pending the outcome of a Permanent Injunction that had been issued in King County concerning the Commission's application of RCW 42.17.130. The investigation was restarted April 28, 2004 following the State Supreme Court's reversal of the Permanent Injunction.

The PDC staff reviewed your allegations in light of the following statute and rule:

RCW 42.17.130 prohibits elective officials and their employees from using or authorizing the use of any of the facilities of a public office or agency, directly or indirectly, for the promotion of or opposition to any ballot proposition.

WAC 390-17-271 (2) states that RCW 42.17.130 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses.

In your complaint, you alleged that Mr. Spencer organized a levy committee meeting that took place on park district property during working hours, and included a park district employee, in violation of RCW 42.17.130.

We found that:

- On February 5, 2002, voters in the Bainbridge Island Park District failed to pass the district's Maintenance and Operations levy with the required 60 percent passage rate. On March 28, 2002, Bainbridge Island Park District Commissioners voted to place the Maintenance and Operations levy on the May 21, 2002 ballot for consideration.
- On March 11, 2002, the pro-levy campaign committee reserved a park district facility. The room was reserved using the normal method for reserving a room for community

use. In accordance with district policy of allowing community groups to meet on district property at no cost, no fee was charged to the pro-levy committee. The levy committee meeting was held at the Strawberry Hill Center from 7:00 p.m. to 9:00 p.m., well after the normal district work hours of 8:30 a.m. to 5:00 p.m.

- Dave Lewis, the park district's Executive Director, acknowledged that he has represented the park district at meetings held outside of regular work hours, which are 8:30 a.m. to 5:00 p.m., Monday through Friday, but stated that he attended the March 11, 2002 meeting as a private citizen and not as a representative of the district. Mr. Lewis further stated that he was not directed or asked to attend pro-levy committee meetings by the Park District Commissioners or by anyone else.

You also alleged that Mr. Spencer gave Mr. Lewis the responsibility *"to hammer out a campaign plan that was amenable to everyone,"* in violation of RCW 42.17.130. Attached to your complaint was an e-mail from Mr. Spencer to levy supporters.

We found that:

- The e-mail on which you base your allegation is addressed from Mr. Spencer's home e-mail and was sent on March 13, 2002, to various personal e-mail addresses of levy supporters. In the e-mail, Mr. Spencer states, ***"The subject of ball fields is a major issue needing resolution. This group, I guess we are "Parks for People," will need two to three people concerned with this subject to work with Dave Lewis and hammer out a plan that is amenable to everyone.*** (Emphasis added) ***This subcommittee will meet outside of our regular meeting time on Mondays to resolve this issue. I need volunteers, - no volunteers, no park levy."***
- Mr. Spencer stated that although Mr. Lewis attended the pro-levy committee meetings as a private citizen, Mr. Lewis' role as park director is to facilitate negotiations with user groups who will benefit from park services.
- Mr. Lewis confirmed that he attended the pro-levy committee meetings as a private citizen, and that he was not directed to attend the meetings by the park district commissioners.

Thus, we found no evidence of a violation of RCW 42.17.130 by Dane Spencer.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Dane Spencer.

Thomas F Hujar
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If you have questions, please contact Phil Stutzman, Director of Compliance, at 360-664-8853 or toll free at 1-877-601-2828.

Sincerely,

Vicki Rippie
Executive Director

c: Dane Spencer